rant or process of a court, authorize the issuance of the writ. It is said that the writ of habeas corpus is intended for the benefit of all persons who may be deprived of their liberty without sufficient cause. An actual restraint is necessary to warrant interference by habeas corpus; but any restraint which precludes freedom of action is sufficient and actual confinement in jail is not necessary. Persons discharged on bail are not restrained of their liberty so as to be entitled to discharge on habeas corpus, but upon their surrender to the proper officers by their sureties it has been held that habeas corpus will lie. So, if the person who has been released on bail surrenders himself of his own accord, it is held in several jurisdictions that habeas corpus will not lie. 21 Cyc. 288-290, where many cases are cited in the notes. In Johnson *v.* Hoy, 227 U. S. 245, 57 L. Ed. 497, 33 Sup. Ct. Rep. 240, Mr. Justice Lamar said: 'But even if it could be claimed that the facts relied on presented any reason for allowing him a hearing on the constitutionality of the act at this time, the defendant would not be entitled to the benefit of the writ, because since the appeal he has given bond in the district court and has been released from arrest under the warrant issued on the indictment. He is no longer in the custody of the marshal to whom the writ is addressed, and from whose custody he seeks to be discharged. The defendant is now at liberty, and having secured the very relief which the writ of habeas corpus was intended to afford to those held under warrants issued on indictments, the appeal must be dismissed.' See opinion by Justice Miller in Wales *v.* Whitney, 114 U. S. 564, 29 L. Ed. 277, 5 Sup. Ct. Rep. 1050, where the question is thoroughly examined. The sum of the matter is that a prisoner released on bail is at liberty and that one at liberty is not imprisoned."

Electricity—Furnishing Electricity to Known Defective Fixture.—In Aurentz *v.* Nierman, 131 N. E. 832, the Appellate Court of Indiana held that a corporation which supplied a current of electricity to fixtures in a building over which it had no control and which it was not authorized to repair, after it acquired knowledge by inspection, on complaint of the building owner, that the wiring in the fixtures was defective and dangerous, is liable for the death of a person caused by his coming in contact with such fixtures.

The court said in part:

"It is the undisputed evidence in this case that with full knowledge that appellant's wires, which were carrying a dangerous voltage, were grounded and that they continued to be so grounded for a number of years, there was no inspection thereof for the purpose of repairing the defect. From the evidence the jury had a right to infer that the wires and the brass parts to which the wires were attached on the socket above mentioned were unguarded and uninsulated, and that both appellants had knowledge of such condition.

"In the case of Ayrshire Coal Co. *v.* Wilder, 129 N. E. 260, the

court quotes with approval from Winegarner *v.* Edison Light Co., 83 Kan. 67, 109 Pac. 778, 28 L. R. A. (N. S.) 677, as follows:

" 'Wires charged with an electric current may be harmless, or they may be in the highest degree dangerous. The difference in this respect is not apparent to ordinary observation, and the public, therefore, while presumed to know that danger may be present, are not bound to know its degree in a particular case. The company, however, which uses such a dangerous agent, is bound, not only to know the extent of the danger, but to use the very highest degree of care practicable to avoid injury to every one who may be lawfully in the proximity of its wires and liable to come accidentally or otherwise in contact with them.'

"The court approves the quotation as to the dangerous agency, but says the statement as to degree of care is not in harmony with the Indiana decisions. After further quotations from other authorities the court then says:

" 'There can be no doubt but that to maintain an uninsulated wire charged with dangerous current of electricity in a place where an employee in the discharge of his duty may come in contact with it without more constitutes negligence.'

"See, also, Sheffield *v.* Morton, 161 Ala. 153, 49 South. 772; Southwestern, etc., Co. *v.* Bruce, 89 Ark. 581, 117 S. W. 564. If the wires in this building had been properly insulated, and if the fixtures had been properly protected and insulated, it is evident that the accident would not have occurred. Appellant Aurentz was in the exclusive possession of the store and had full control of the system of wiring, and under the circumstances of this case he cannot protect himself against liability by saying that he was not an expert and that he relied upon information that he received from others. It clearly appears by the evidence that he was informed that his wires were grounded, and that they had been for a long period of time. As we view the case, a clear case of negligence was made out against him. Appellant city cites the case of Caldwell *v.* Alley, 123 N. E. 432, decided by this court for the purpose of establishing its nonliability, but the case does not help it, for it there clearly appears that the company supplying the electric current had no knowledge of the existence of the charged wire that caused the death there involved, and it does not appear that they were ever called to inspect, while in this case it appears that appellant city was repeatedly notified of the defective condition and was called to the building, and that it sent its experts, who discovered a ground, and they knew, or should have known, that under certain conditions such ground would become highly dangerous, and that it might produce fatal results to any persons coming in contact with the wires so grounded. This affirmative element of knowledge also distinguishes this case from Princeton Light, etc., Co. *v.* Ballard, 59 Ind. App. 345, 109 N. E. 405, and cases there cited on page 347. 1 Joyce, Electricity (2d Ed.) § 445c, there cited, states the rule as follows:

" 'Where the wiring of a building is not done, or the fixtures not installed, by the company furnishing the electricity, and an injury ensues solely as a result of some defect in the wiring or fixtures, of which the company had no knowledge, and it is under no contract obligation to keep such wiring or fixtures in proper repair, its only obligation being to supply electric current, it is not liable for such injury.'

"The author then illustrates as follows:

" 'Where a guest at a hotel was injured by the falling of an electric light upon him, which burned his back, it was held that as it was not shown that the wiring was done by the electric light company, or that it had any knowledge of defects therein, such company could not be held liable for the injury caused by the falling of the wire.'

"By furnishing the current under such circumstances it must be held that appellant city negligently contributed to the fatal result."

[Note.—Courts generally agree that actual knowledge of the defective and dangerous condition of electric appliances owned and controlled by customers will charge a supplier of electricity with liability for the consequences where the current is thereafter supplied to such fixtures, because the law imposes a duty not knowingly to endanger life and limb. 20 C. J., 365; Hoffman *v.* Leavenworth Light, etc., Co. (1914), 91 Kan. 450, 138 Pac. 632, 50 L. R. A. (N. S.), 574; City of Sandersville *v.* Moye (1920), 25 Ga. App. 64, 102 S. E. 552; Devost *v.* Twin State, etc., Co. (N. H., 1920), 109 Atl. 839 (dictum). Whether anything short of actual knowledge is sufficient depends on whether there is a duty on the part of the electric company to make reasonable inspection to keep safe such privately controlled fixtures. The weight of American authority upholds the doctrine that the duty of a mere purveyor of electricity with respect to fixtures controlled by others ends when the proper connections are made, on the ground that the electric company is entitled to presume that the appliances are safe until the presumption is rebutted by actual knowledge to the contrary. National Fire Ins. Co. *v.* Denver Consol. Elec. Co. (1901), 16 Col. App. 86, 63 Pac. 949; Hoffman *v.* Leavenworth, etc., Co. (1914), 91 Kan. 450, 138 Pac. 632, 50 L. R. A. (N. S.), 574; Minneapolis, etc., Co. *v.* Cronan (1908), 166 Fed. 651, 92 C. C. A. 345, 20 L. R. A. (N. S.), 816; Pressley *v.* Bloomington Co. (1916), 271 Ill. 622, 111 N. E. 511. But some courts maintain that, because of the dangerous character of electricity, a seller is liable for injuries resulting from defective appliances not under its control if the defect is such as might have been discovered by reasonable inspection. Thomas *v.* Mayville Gas Co. (1900), 108 Ky. 224, 56 S. W. 153; Hanton *v.* New Orleans, etc., Co. (1909), 124 La. 562, 571, 50 So. 544 (dictum); Hoboken Land, etc., Co. *v.* United Electric Co. (1904), 71 N. J. L. 430 58 Atl. 1082, where however the fixtures were installed by independent contractor hired by defendant. But Thomas *v.* Mayville Gas Co., the leading case for this view, was limited by the Kentucky court in

Smith's Admx. *v.* Middlesboro Elec. Co. (1915), 164 Ky. 46, 174 S. W. 773, which holds that the doctrine does not apply to fixtures in private dwellings where the electric company has no right to enter to inspect, and is therefore essentially in accord with the instant case. For a discussion of res ipsa loquitur as applied to this situation, see 3 Va. L. Rev. 349-65.—*Minnesota Law Review.*]

Schools—Right of Board to Deny Diploma to Graduate Refusing to Wear Cap and Gown.—In Valentine *v.* Independent School Dist., 183 N. W. 434, the Supreme Court of Iowa held that a school board may deny the right of a graduate of a high school to participate in the public ceremony of graduation unless cap and gown is worn, but the board cannot deny a diploma to a gradaute satisfactorily completing the course for refusal to wear a cap and gown for the graduating exercises.

The evening of May 30, 1918, had been selected for the commencement exercises of the Casey High School in the auditorium of the high school building. The last chapter in the history of the class of 1918 was about to be written and the period placed at the end of the sentence of the high school life of the prospective graduates. Six young girls who had finished the prescribed course of study with satisfactory grades presented themselves for the honors of graduation, and it was the intent of the school officers by public ceremony to recognize the right of the members of the class to be graduated and have diplomas granted in due form. Had an incident not happened just a few moments before invocation was offered, no echo of the doings of this otherwise pleasant evening would have been heard in any court.

It appears that under oral direction from the school board to the superintendent of the high school the class was informed that caps and gowns should be worn on that auspicious occasion, and the same were furnished by the board. The caps were misfits and were not worn. Objections were made by the class to the use of the gowns by reason of the offensive odor emanating therefrom due to a recent fumigation through the use of formaldehyde by the city health authorities.

The members of the class at this time were in the anteroom ready to take their places, but the edict of the superintendent, "Thou shalt not pass without wearing the gowns," proved a sufficient barrier to three of the girls who were not permitted to occupy seats on the platform and to whom diplomas were not granted. This incident was the prima causa for the denial of the rights and honors of graduation to the plaintiff and two of her classmates.

The court said in part:

"The wearing of a cap and gown on commencement night has no relation to educational values, the discipline of the school, scholastic grades, or intellectual advancement. Such a rule may be justified in